IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.2443 OF 2005
IN
APPEAL (LOD) NO.751 OF 2005
IN
COMPANY PETITION NO.854 OF 2004
IN
COMPANY APPLICATION NO.400 OF 2004

The Administrator of the Specified Undertaking of the Unit Trust of India ... Appellant

versus

Jaysynth Dyestuff (India) Ltd. and others ... Respondents

Mr.Ravi Kadam, Advocate General with Mr.P.A.Sawant i/by M/s.Shukla & Shukla for appellant.

Mr.I.Chagla, Sr.Counsel with Mr.Virag Tulzapurkar i/by Mr.Hemant Sethi for respondent no.1.

CORAM : DR.S.RADHAKRISHNAN AND
S.C.DHARMADHIKARI, JJ.

DATE : 26th September 2005

PC :

1. Heard learned counsel for the appellant and the respondents. By this Notice of Motion the appellant is seeking condonation of delay of 211 days in filing the above appeal. We have perused the affidavit in support of the Notice of Motion as well as affidavit in reply filed on behalf of

respondent no.1. The impugned order is dated 17th December 2004 whereby this Court had approved a scheme. The said order has been communicated to appellant by letter dated 7th January 2005. Certain payments as indicated in the scheme as per order dated 17th December 2004 have been received by the appellant on 5th January 2005. The payments have duly been accepted by appellant by making a categorical endorsement that the same is accepted without prejudice to their rights and remedies, as scheme of arrangement was not acceptable to them. On 7th January 2005 respondent no.1 had even forwarded the Judge's order dated 17th December 2004 to the appellant. Appellant was heard before the impugned order was passed. Even subsequent thereto the appellant has accepted balance amount on 28th March 2005, as per the scheme. The entire amount has been paid to the appellant as per the said scheme on 28th March 2005. The appellant has also been furnished with copies of the company petition, affidavit in support, copies of two affidavits and report of Mr.A.P.Kothari by a covering letter dated 11th April 2005 which was received by the appellant on 21st April 2005. It appears that on 30th June 2005 the learned Single Judge recorded full

compliance of the entire order wherein the present appellant had appeared. The present appeal was lodged on 6th August 2005 and the present Notice of Motion seeking condonation of delay was registered only on 30th August 2005. Having regard to the aforesaid facts and circumstances, we do not find that the appellant has been diligent at all in pursuing the above appeal and we do not find any bonafide reasons made out for condoning the delay of 211 days. Hence Notice of Motion stands dismissed.

(DR.S.RADHAKRISHNAN, J.)

(S.C.DHARMADHIKARI, J.)

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1. Heard learned counsel for the parties. In view of the order passed in Notice of Motion No.2443 of 2005, present appeal does not survive. It stands dismissed as such.

(DR.S.RADHAKRISHNAN, J.)

(S.C.DHARMADHIKARI, J.)